

amendments will be entered in the order in which they were filed in the absence of any specific instructions for entry. Therefore, in accordance with MPEP § 706.07(h) III. D., the previously filed Response to Final Rejection, including the Terminal Disclaimer and the Witcher Declaration, as well as the present submission which includes inventor declarations filed under 37 C.F.R. § 1.131, should be entered on the record in the order filed.

Applicant has authorized payment under 37 CFR §1.17(e) from Deposit Account No. 05-0840 via the accompanying Request for Continued Examination (RCE) Transmittal for any fees necessary as a result of the RCE. Further, Applicant hereby authorizes payment from Deposit Account No. 05-0840 for any appropriate fees necessary and in excess of those for which payment was previously rendered as a result of the previously submitted but unentered amendment, Terminal Disclaimer, and/or the Witcher Declaration, all of which, as discussed above, should now be entered on the record.

As noted previously in this submission, Claims 34, 48, and 51 are pending in the present application. The prosecution history preceding the present RCE filing involved rejections to these claims on the alleged grounds of 1) nonstatutory obviousness-type double patenting over claims 1-6 of U.S. Patent 7,740,847 and 2) anticipation by the Business Wire reference under 35 U.S.C. §102(a). In response, Applicant, solely to hasten the prosecution of this application, submitted to the Office 1) a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) in order to obviate issues of judicially created double patenting in the present application and 2) the Witcher Declaration in support of the Applicant's assertion that the Business Wire reference is not an enabling prior art reference against the presently claimed invention.

With the present RCE and this accompanying submission, Applicant has placed before the Office the Response to Final Rejection, including the amendments, remarks, Terminal Disclaimer and declaration evidence that heretofore were not made part of the record. In addition, the Applicant has included in this submission new evidence of patentability via declarations under 37 C.F.R. §1.131 by all of the inventors of the presently claimed invention. The inventor declarations submitted herewith under 37 C.F.R. §1.131 clearly establish that the claimed subject matter was invented in the United States by the inventors of the present application before the effective date of the cited Business Wire reference, i.e., January 3, 2003.

Accordingly, Applicant respectfully requests that the present claims be reconsidered and found to be in condition for allowance. It is submitted that the claims are of proper form and scope for allowance. A favorable action on the merits is respectfully requested.

Should the Examiner wish to discuss the foregoing in an effort to advance this application

Serial No.: 10/553,938

towards allowance, the Examiner is urged to telephone the undersigned at the indicated number.

Respectfully submitted,

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